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4) Status of Amendments:

A response to the final rejection is being filed January 12, 1999.

5) Summary f the Invention:

Embodiments of the present invention include films and film composites (e.g. melt-blown, nonwoven polymeric materials in addition to the film (page 13, lines 7 – 19)) based upon films of polyolefin and filler combinations, are passed through a nip of interdigitating grooved rollers, have excellent water vapor transmission rates (WVTR), while maintaining resistance to liquid permeability, and retaining film integrity. The preferred polyolefin is linear low density polyethylene.

6) Issue:

The sole issue is whether claims 1 – 11 are rendered obvious under 35 USC § 103 by the cited document combination.

7) Grouping of the claims:

Claims 1 – 11 stand or fall together.

8) Argument:

Applicants argue that a *prima facie* case of obviousness has not been made, and therefore, the burden of going forward has not shifted to Applicants.

REJECTION UNDER 35 USC § 103

Claims 1 – 11 stand rejected under 35 USC § 103(a) over US 4,777,073 (Sheth) in view of US 4,517,714 (Sneed).

The Sheth document is characterized by the Examiner as:

> "Sheth teaches the basis claimed process for producing a high WVTR film, comprising: extruding and stretching a precursor film. . . . an LLDPE precursor film . . . having a $CaCO_3$ filler wherein the film is 15 – 65% filler by weight . . . films having a WVTR above 100 $g/m^2/day$ . . . embossing prior to stretching the film . . . and various film compositions forming by adding an elastomer."

and

"AFTER FINAL"

"Sheth does not teach passing a precursor film through a nip formed by two interdigitating grooved rollers to cause lateral stretching thereof. However, Sneed et al teaches passing a film through a nip formed by tw interdigitating grooved rollers to cause a lateral stretching thereof. . . . Sheth and Sneed are combinable because they are from the same field of endeavor, namely, forming and stretching polyolefin films." (emphasis added).

and

"At the time of invention, one of ordinary skill in the art would have found it obvious to have passed a film through a nip formed by two interdigitating grooved rollers. Thereby causing a lateral stretching, as taught by Sneed, et al, in the process of Sheth. Since Sneed, et al, suggests that such ring-rolling will provide molecular orientation in a preferred direction within the film."

Applicants specifically traverse this holding of obviousness. Applicants further take strong issue with both the characterization of the cited documents, as well as the basis for combining the Sneed and Sheth documents.

First of all, Sheth fairly suggests two and only two methods of orientation, in the machine direction by means of 2 rollers driven at different speeds (where the stretching occurs because of the speed differential), and in the transverse direction by a tentering device (which physically, grabs the edges of the film to pull and orient). Neither of these is an interdigitating set of grooved rollers as required by the present claims. Second, there is no suggestion or disclosure to such interdigitating grooved rollers in the Sheth document.

The Examiner looks to the secondary cited document, Sneed to solve this deficiency of Sheth. However, there is no disclosure or suggestion in the body of Sneed to a "film". Sneed mentions film only once, in the background, stating that "The ring rolling of thermoplastic films is disclosed in US Patent No. 3,233,029 . . .". This fact, that Sneed is not directed to films, was pointed out in the previous response dated December 2, 1997, but the Examiner repeats the assertion in the face of the facts. If there is a pertinent disclosure in Sneed to films, Applicants cannot find it. Applicants

"AFTER FINAL"

respectfully request that the Examiner point out where in Sneed such a pertinent disclosur exists.

Additionally, the Examiner states as the basis for combining these documents. ". . . they are from the same field of endeavor, namely, forming and stretching polyolefin films." (emphasis added). This is untrue. Sneed is not directed at stretching polyolefin films. Sneed, as discussed supra, is directed to "nonwoven fabric barriers" "which may consist of only of plies of hydrophobic microfine fibers". (Col. 2, lines 16 – 17, emphasis added).

As a further basis for combining or as motivation to so combine, the Examiner states that the skilled person would find it obvious ". . . to have passed a film through a nip formed by two interdigitating grooved rollers thereby causing lateral stretching as taught by Sneed et al, in the process of Sheth, since Sneed et al. suggests that such ring-rolling will provide molecular orientation in a preferred direction within the film". (emphasis added).

What exactly will such "molecular orientation" applied to a nonwoven fabric of Sneed accomplish if applied to Sheth? Readers of the outstanding action are not told.

However, such a link between the Examiner's reciting of the "molecular orientation" of Sneed and the motivation to combine with Sheth must exist to provide a basis or motivation to combine, but there is no such link.

In conclusion, Sheth suggests a filled film oriented to attain breathability by either of two methods, neither of which is ring rolling. Sneed uses ring rolling to impart barrier to layers of nonwoven fabrics, not films.

Accordingly, there is no basis to combine these documents and no *prima facie* case of obviousness has been made.

"AFTER FINAL"

Withdrawal of the rejection is respectfully requested.

Note is made that the correspondence should be sent to

Douglas W. Miller
In representation of Exxon Chemical Company
P. O. Box 2149
Baytown, Texas 77522-2149
Facsimile: (281)834-2495

However the telephone number for Douglas W. Miller is (713)355-9911.

Respectfully submitted,

Douglas W. Miller
Agent for Applicants
Registration No. 36,608

Exxon Chemical Company
Law Technology
P. O. Box 2149
Baytown, Texas 77522-2149
(281) 834-1993

CERTIFICATE OF FACSIMILE TRANSMISSION UNDER 37 CFR 1.8(a)

I hereby certify that this paper is being facsimile transmitted to the United States Patent and Trademark Office on January 12, 1999.

Douglas W. Miller
Registration No. 36,608